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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,815	03/23/2004	Keisuke Hirai	1232-5350	4399
27123 7590 03/19/2008 MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101				
EXAMINER				
MISLEH, JUSTIN P				
ART UNIT		PAPER NUMBER		
2622				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOPatentCommunications@Morganfinnegan.com

Shopkins@Morganfinnegan.com

jmedina@Morganfinnegan.com

Office Action Summary

Application No.

10/807,815

Applicant(s)

HIRAI, KEISUKE

Examiner

JUSTIN P. MISLEH

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed December 18, 2007 have been fully considered but they are not persuasive.
2. Applicant argues, "The camera of Narisawa also has a microphone 700 used for inputting the photographer's voice (see e.g., column 5, lines 15-16). Narisawa however does not teach or suggest the member corresponding to the second operating member, as claimed. In the camera of Narisawa, the focus detection area is set by inputting photographer's voice into the microphone 700. In addition, the focus detection area is stored in the memory in association with the photographer's voice but not the microphone 700. Therefore, the microphone 700 of Narisawa is different from the second operating member as claimed."
3. The Examiner respectfully disagrees with Applicant's position. In Applicant's figure 6, the actual buttons 13-1, 13-2, and 13-3 (the second operating member) are not stored in the memory, rather it is the signals triggered by the depression of the buttons that are stored in association with the focus detection areas in the memory. Button 13-1 will have a certain signal, Button 13-2 will have a certain signal, and Button 13-3 will have a certain signal. Similarly, in Narisawa, the voice signals captured by the microphone 700 or signals representing the voice signals is what is stored in memory in association with the focus detection areas. Granted there is only one microphone (700) in Narisawa, but each voice signal output by the microphone (700) will have unique characteristic similar to signals representing Buttons 13-1 – 13-3 in the present

invention. Therefore, Applicant's argument is not persuasive – the microphone 700 indeed qualifies as the claimed second operating member.

4. The Examiner respectfully notes Applicant's invention, as shown in figures 6 and 9, allows a user to manipulate a focus detection area using buttons 31 – 33 and 11 – 12 to change a position and size of a focus detection area and store the size and position of the new focus detection area in memory in association with one of the preset buttons (13-1 – 13-2). Therefore, when in a picture taking mode, the user can quickly recall a preset focus detection area using the preset buttons.

5. The invention shown in Narisawa is similar to Applicant's invention. First, a user selects desired focus detection areas and associates them with different voice signals. Then, when in a picture taking mode, the user can quickly recall a preset focus detection area. There are differences between Applicant's invention and Narisawa especially in the fact Narisawa does not allow a user to change both size and position of each focus detection area, that each focus detection area is not varied in both size and position, and there are no preset buttons; however, the claim language of Claim 1 is written broadly enough such that it does not clearly recite these differences.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1 and 2** are rejected under 35 U.S.C. 102(b) as being anticipated by Narisawa (US 5,749,000).

The Examiner's response to arguments above is fully incorporated in the rejections below.

8. For **Claim 1**, Narisawa discloses, as shown in figures 1B, 2, 8, 11, and 12, an optical apparatus comprising:

a focus detection unit (AF Sensor 10) detecting a focus state of an image-taking optical system (Lens Drive Device 13) with respect to an object included in a focus detection area (see column 4, lines 34 – 36);

a first operating member (AF Mode Dial 200) which is operated for changing at least one of a size and a position of the focus detection area (When AF Mode Dial 200 is in Calibration 1 mode, as shown in figure 4, numerical display is performed. The nine focus detection area positions are cycled through and the user has an opportunity to store a voice signal for each focus detection area. Therefore, the AF Mode Dial 200 causes the camera to change the position of a focus detection area. Since this language requires changing at least one of size and position, this language is satisfied.);

a memory (not explicitly shown; however, necessary for the operations described by Narisawa) storing a plurality of focus detection areas which differ from each other in at least one of size and position (Figure 1B shows the nine predetermined spatially separated focus detection areas. The specific number and position of these detection areas are invariable and necessary for proper operation. Therefore, Narisawa must have a memory to store these focus detection areas.

Again this language requires changing at least one of size and position, thus this language is satisfied.);

a second operating member (microphone 700) which is operated (see figure 8) for setting the focus detection area used for detecting the focus state of the image-taking optical system (see Steps S85 and S89 in figure 8); and

a controller (CPU 16) performing a storage process of storing at least one of size and position of the focus detection area determined through the first operating member into the memory in association with the second operating member (see figure 4 and the Examiner's explanation below).

The Examiner respectfully notes that the second operating member (microphone 700) of Narisawa is used both during the Calibration 1 mode, as shown in figure 4, and during regular operation, as shown in figure 8. During the Calibration 1 mode, which is selected via the first operating member (AF Mode Dial 200), the focus detection area is positioned in one of nine different positions and the user, via use of the second operating member (microphone 700), has the opportunity to store a voice signal for each of nine focus detection areas. Therefore, Narisawa discloses "a controller performing a storage process of storing at least one of size and position of the focus detection area determined through the first operating member into the memory in association with the second operating member."

However, during regular operation (as shown in figure 8), which is also selected via the first operating member (AF Mode Dial 200), the second operating member (microphone 700) is used to select a desired focus detection area for image-taking. Therefore, Narisawa also

discloses "a second operating member which is operated for setting the focus detection area used for detecting the focus state of the image-taking optical system."

9. As for **Claim 2**, Narisawa discloses, as shown in figure 15, an image-pickup element (AF Sensor 10), which photoelectrically converts an object image formed by the image-taking optical system (see column 10, lines 36 – 39);

wherein the focus detection unit (AF Sensor 10) generates a focus evaluation signal representing a contrast state of a signal component of a video signal obtained using the image-pickup element (see column 10, lines 39 – 46), the signal component corresponding to the focus detection area; and

wherein the controller performs such a focus control of the image-taking optical system that the focus evaluation signal takes on a predetermined level or more (see column 10, line 47 – column 11, line 25).

Allowable Subject Matter

10. **Claim 10** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is a statement of reasons for the indication of allowable subject matter:

The closest prior art, as indicated above, allows a user to select desired focus detection areas and associate them with different voice signals and, when in a picture taking mode, allows the user to quickly recall a preset focus detection area. The closest prior art employs a first operating member and a second operating member as claimed in Claim 1.

However, the closest prior art does not teach or fairly suggest a third operating member which is operated for storing at least one of size and position of the focus detection area into the memory; wherein the optical apparatus has a plurality of second operating members, and wherein, when the third operating member and one of the second operating members are turned on, the controller performs the storage process while assigning at least one of size and position of the focus detection area determined through the first operating member to the second operating member turned on.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lin Ye can be reached on 571.272.7372. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**/Justin P. Misleh/
Examiner, Art Unit 2622
March 20, 2008**